

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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COMPLEX SYSTEMS, INC., :  
: Plaintiff, : **MEMORANDUM &**  
: : **ORDER**  
: : No. 08 CV 7497 (LBS)  
v. :  
: :  
ABN AMRO BANK N.V., :  
: Defendant. :  
:-----x

SAND, J.:

Supplementing this Court's oral opinion of April 14, 2009, we conclude that the furnishing by Plaintiff of materials subject to its confidentiality restrictions does not constitute publication for the purpose of this litigation. *See Computer Assocs. Int'l v. Quest Software, Inc.*, 333 F. Supp. 2d 688, 698 (N.D. Ill. 2004); *Mai Sys. Corp. v. Peak Computer, Inc.*, 1992 WL 159803, at \*15 (C.D. Cal. Apr. 14, 1992). Moreover, without any indication that Plaintiff made purposeful misrepresentations in its registration, Defendant has offered no argument as to why this registration would have any affect on the outcome of this litigation and not merely result in a different type of registered copyright. *See Computer Assocs.*, 333 F. Supp. 2d at 699. Accordingly, Defendant's motion to dismiss is denied. The parties are ordered to advise the Court of an appropriate schedule for discovery by May 7, 2009.

**SO ORDERED.**

Dated: April 15, 2009  
New York, NY

  
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U.S.D.J.